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FILED

OCTOBER 7, 2004

NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF MEDICAL EXAMINERS

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IN THE MATTER OF THE LICENSE OF

Martin Koenigsberg, D.O.

TO PRACTICE MEDICINE AND SURGERY  
IN THE STATE OF NEW JERSEY

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: Administrative Action  
:  
: CONSENT ORDER

This matter was opened to the New Jersey State Board of Medical Examiners ("Board") upon receipt of a patient complaint alleging advertising violations and fraud on the part of Dr. Martin Koenigsberg ("Respondent").

Respondent testified under oath before the Preliminary Evaluation Committee of the Board on March 6, 2002. Respondent was represented by counsel, Michael E. Quiat, Esq. The Committee questioned Respondent regarding his care, treatment and billing for patients R.P. and J.P.

CERTIFIED TRUE COPY

Respondent was initially treating R.P. and J.P. for weight reduction after the patients answered an advertisement in the Pennysaver newspaper in March of 2000. The advertisement had mentioned a free initial visit. R.P. and J.P. were charged a total of \$354 for their visit (\$25 for each consultation and \$152 each for 2 week supply of vitamins and supplements, and Xenical 20 mg).

Respondent claimed he was not aware of the Board regulations regarding free service advertising as set forth in N.J.A.C. 13:35-6.10(g). Furthermore, Respondent testified that he was earning a marginal profit on the vitamins/supplements beyond the amount allowed by N.J.S.A. 45:9-22.11.

Respondent does not have any formal training in bariatrics. Respondent is not a member of any bariatric organization. The Board's records reflect that on March 10, 1982, Respondent's license was revoked by a Final Order for improperly, indiscriminately and unlawfully dispensing Controlled Dangerous Substances. An Order of Limited Reinstatement of License was entered on June 15, 1984. Subsequently, by Order Granting Unrestricted Licensure, Respondent's license to practice was reinstated on April 17, 1997.

Based on the foregoing information, the Board finds Respondent to be in violation of the Board's advertising regulations regarding advertisement of free services as set forth in N.J.A.C. 13:35-6.10(g). Therefore, the Board finds that Respondent engaged

in conduct which constitutes professional misconduct by virtue of advertising in violation of N.J.A.C. 13:35-6.10. The Board also finds Respondent in violation of N.J.S.A. 45:9-22.11 which prohibits a doctor from dispensing more than a 7 day supply of any drug, including vitamins and supplements. The Board also finds Respondent in violation of N.J.S.A. 45:9-22.11 for dispensing drugs for a profit beyond the amounts allowed for by statute.

The Board having found *the* within disposition adequately protective of the public health, safety and welfare and the licensee being desirous of resolving this matter without the need for further formal proceedings,

IT IS ON THIS 6<sup>th</sup> DAY OF October, 2004;

ORDERED:

1. Respondent, Martin Koenigsberg, D.O., is hereby reprimanded for violation of the Board's advertising regulations regarding advertisement of free service as set forth in N.J.A.C. 13:35-6.10(g). The Board also finds Respondent in violation of N.J.S.A. 45:9-22.11 and N.J.S.A. 45:1-21(h).

2. Respondent shall cease and desist from engaging in advertising practices which fail to adhere to the Board's regulatory requirements as set forth in N.J.A.C. 13:35-6.10.

3. Respondent shall cease and desist from the practice of offering free services in violation of the Board's advertising regulations regarding advertisement of free service as set forth in N.J.A.C. 13:35-6.10(g).

4. Respondent shall, within the twelve months following entry of this Order, enroll in and successfully complete 50 hours of focused reeducation in bariatrics and 20 hours per year for a period of four years thereafter, which may include Continuing Medical Education credits in bariatrics. Any focused reeducation program/course in bariatrics or Continuing Medical Education course/program in bariatrics which is intended to fulfill the requirements of this Order must be approved in advance by the Medical Director of the Board. Successful completion means that all sessions were attended, all assignments were properly and appropriately completed, and a passing grade was achieved which was unconditional and without reservation.

5. Respondent shall pay civil penalties of \$2500 per patient (a total of \$5,000 total for the 2 patients at issue in this Order) and investigative costs in the amount of \$3,405.18 upon the entry of this Order, which shall be memorialized by a Certificate of Debt duly recorded in the State of New Jersey, and paid by the Respondent as follows: nine hundred and five dollars and eighteen cents (\$ 905.18) shall be paid concurrently with the signing of this order. Thereafter, five successive payments in

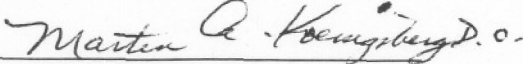
the amount of fifteen hundred dollars (\$1500) shall be paid by certified check or money order on or before the first day of the month. Payments shall be submitted by certified check or money order made payable to the "New Jersey State Board of Medical Examiners." Payment shall be sent via certified mail to William Roeder, Executive Director, Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08625-0183. Payment shall be sent via certified mail to William Roeder, Executive Director, Board of Medical Examiners, Post Office Box 183, Trenton, New Jersey 08625-0183. Any failure by Respondent to make payments under the terms of this Order shall accelerate Respondent's total debt to the Board, and shall itself, constitute professional misconduct pursuant to N.J.S.A. 45:1-21(e), thereby subjecting Respondent to any and all remedies available to the Board pursuant to N.J.S.A. 45:1-21 and 22.

NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS

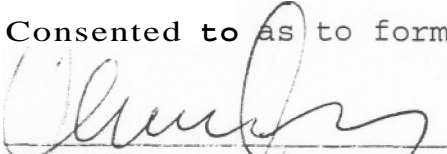
BY: 

Bernard Robins, M.D.  
President

I have read and understood the above Order  
and agree to be bound by its terms,  
I hereby consent to entry of this Order:

  
Martin Koenigsberg, D.O.

Consented to as to form:

  
Michael E. Quiat, Esq.  
Law Offices of Uscher, Quiat, Uscher & Russo, P.C.  
Attorney for Respondent. Martin Koenigsberg, D.O.